

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA

- v -

Patrice Runner

Presiding Judge: **Joanna Seybert, Senior U.S.D.J.**Case No(s): **18-cr-0578-JS-AYS**Date: **4/15/2024**Start Time: **1:45 PM** Total Time: **1 hr. 20 mins.**

MINUTE ENTRY FOR A CRIMINAL PROCEEDING

SEALED PROCEEDING: ☐ Yes ☒ No

I. APPEARANCES:

Defendant (# 1): **Patrice Runner**☒ Present ☐ Not Present ☒ In Custody ☐ On Bond ☐ SurrenderedCounsel: **James Darrow**☐ Retained ☒ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐Government: **John Burke**

Interpreter(s): _____

Pretrial Services: _____

Language: _____

Probation Dept.: _____

Court Reporter(s): **ToniAnn Lucatorto**Other Appearances: **Thomas Ninan (Case Agent)**

FTR Time(s): _____

Courtroom Deputy: **Eric L. Russo**

II. PROCEEDINGS HELD:

☒ In-Person☐ Arraignment (pg. 2)☐ Fatico Hearing (pg. 4)☐ Motion Hearing (pg. 4)☐ By Telephone☐ Bond Hearing (pg. 5)☐ Initial Appearance (pg. 2)☐ Plea Hearing (pg. 3)☐ By Video☐ Curcio Hearing (pg. 2)☐ Jury Deliberations (pg. 3)☒ Sentencing/Re-Sentencing (pg. 4)☐ Detention Hearing (pg. 5)☐ Jury Selection (pg. 3)☐ Status/Pre-Trial Conference (pg. 2)☐ Evidentiary Hearing (pg. 4)☐ Jury Trial (pg. 3)☐ Other Proceeding: _____

III. SUMMARY OF THE PROCEEDINGS:

- ☐ Arraignment held as to the charge(s) outlined in the _____.
- ☐ This was an initial appearance before this Court by Defendant _____.
 - ☐ Defendant _____ waived Indictment.
 - ☐ Waiver of Indictment executed by Defendant _____.
 - ☐ Defendant _____ waived the public reading of the charging instrument.
 - ☐ Defendant _____ was advised of, and acknowledged, the charges outlined in the charging instrument.
 - ☐ The Government was advised of, and acknowledged, its obligation under Rule 5(f) of the F.R.Cr.P. and the Due Process Protections Act.
 - ☐ A written order will be entered fully describing this obligation and the possible consequences of failing to meet it.
 - ☐ Defendant _____ entered a plea of NOT GUILTY as to all counts of the charging instrument.
 - ☐ Defendant _____ waived Speedy Trial from _____ to _____ pursuant to _____.
(For Internal Use Only: Excludable Code = _____.)
 - ☐ Defendant _____ did not waive Speedy Trial.
 - ☐ Speedy Trial was ordered waived for Defendant _____ from _____ to _____ pursuant to _____.
(For Internal Use Only: Excludable Code = _____.)
 - ☐ The Court deems (or previously deemed) this case COMPLEX.
 - ☐ Speedy Trial was ordered waived for Defendant _____ from _____ to _____ pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii).
(For Internal Use Only: Excludable Code = XT - Interest of Justice.)
 - ☐ See Section VI and/or Section VII (page 7) for additional details and/or rulings.
- ☐ Curcio Hearing held as to Defendant _____.
- ☐ Attorney _____ (☐ Federal Defender; ☐ CJA) was appointed to represent the defendant for purposes of this hearing.
 - ☐ The parties presented their oral arguments to the Court.
 - ☐ The defendant was informed of the potential dangers arising from any conflicts of interest with current defense counsel.
 - ☐ The defendant acknowledged and waived any potential conflicts of interest and wishes to proceed with current defense counsel.
 - ☐ The defendant requested that current counsel be relieved and:
 - ☐ that the defendant will retain new counsel.
 - ☐ The defendant must retain new counsel by _____; or within _____ of this hearing.
 - ☐ that the Court appoint new counsel.
 - ☐ The defendant completed and filed the CJA 23 Financial Affidavit for the Court's review.
 - ☐ The Court's decision: ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was RESERVED.
 - ☐ See Section VI and/or Section VII (page 7) for additional details and/or rulings.
- ☐ Status Conference/Pre-Trial Conference held as to _____.
- ☐ This was an initial appearance before this Court by Defendant _____.
 - ☐ The parties advised the Court of the status of the case.
 - ☐ Defendant _____ waived Speedy Trial from _____ to _____ pursuant to _____.
(For Internal Use Only: Excludable Code = _____.)
 - ☐ Defendant _____ did not waive Speedy Trial.
 - ☐ Speedy Trial was ordered waived for Defendant _____ from _____ to _____ pursuant to _____.
(For Internal Use Only: Excludable Code = _____.)
 - ☐ The Court deems (or previously deemed) this case COMPLEX.
 - ☐ Speedy Trial was ordered waived for Defendant _____ from _____ to _____ pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii).
(For Internal Use Only: Excludable Code = XT - Interest of Justice.)
 - ☐ The Court deems (or previously deemed) this case TRIAL READY.
 - ☐ The Court set the following pre-trial submission schedule:

<input type="checkbox"/> All <u>3500 material</u> and <u>404(b) evidence</u> :	due by: _____.
<input type="checkbox"/> <u>Motion(s)</u> in Limine and all supporting papers:	due by: _____.
<input type="checkbox"/> <u>Opposition(s)</u> to Motions in Limine and all supporting papers:	due by: _____.
<input type="checkbox"/> <u>Reply(ies)</u> to Motions in Limine and all supporting papers:	due by: _____.
<input type="checkbox"/> Proposed <u>Voir Dire questions</u> and <u>case summary</u> :	due by: _____.
<input type="checkbox"/> Proposed <u>exhibit and witness list</u> :	due by: _____.
<input type="checkbox"/> Proposed <u>Jury Charge</u> and <u>Verdict Sheet</u> :	due by: _____.
 - ☐ The Court WILL NOT grant any extensions of the deadlines set forth above.
 - ☐ The parties are directed to submit courtesy copies of their submissions to Chambers in accordance with the Court's Individual Rules.
 - ☐ The parties were directed to file a proposed pre-trial submission schedule on or before _____.
 - ☐ The Court will enter a separate order outlining the pre-trial submission schedule.
 - ☐ See Section VI and/or Section VII (page 7) for additional details and/or rulings.

- ☐ Plea Hearing held as to count(s) _____ of the _____-count _____.
- ☐ The defendant was advised of, and acknowledged, the constitutional rights that will be waived when entering a plea of guilty.
 - ☐ The defendant withdrew previously entered not guilty plea and entered a plea of GUILTY to the above referenced count(s).
 - ☐ Court found that there is a factual basis for the guilty plea and ACCEPTED the defendant's plea of guilty.
 - ☐ An Order of Forfeiture was executed.
 - ☐ The parties consented to hold the preparation of the Presentence Investigation Report in ABEYANCE.
 - ☐ The Conviction Notification Form was executed and sent to the U.S. Probation Department.
 - ☐ The parties waived the preparation of the Presentence Investigation Report.
 - ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.
- ☐ Jury Selection (*Voir Dire*) held.
- ☐ The prospective jurors were sworn and given preliminary instructions by the Court.
 - ☐ The prospective jurors were asked questions touching upon their qualifications to serve as jurors.
 - ☐ _____ moved for a Batson Challenge as to Juror _____.
 - ☐ The parties presented their oral arguments to the Court.
 - ☐ The Court made the following ruling: ☐ Motion GRANTED, the juror was excused; ☐ Motion DENIED, the juror remained on the panel.
 - ☐ A jury of _____, with _____ alternates, were selected and are satisfactory to all parties.
 - ☐ The Court ordered the jury to be: ☐ anonymous; ☐ sequestered; ☐ semi-sequestered.
 - ☐ The selected jurors were sworn as trial jurors.
 - ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.
- ☐ Jury Trial held.
- ☐ A jury of _____, with _____ alternates, were previously selected by _____ and are satisfactory to all parties.
 - ☐ The selected jurors were sworn as trial jurors.
 - ☐ The jurors were given preliminary instructions by the Court.
 - ☐ Opening statements were heard from the: ☐ Government; ☐ Defense Counsel.
 - ☐ Witness(es) were called for the: ☐ Government; ☐ defendant(s).
 - ☐ Exhibit(s) were entered into evidence.
 - ☐ The Government rested its case.
 - ☐ The defense rested its case.
 - ☐ A Charge Conference was held with the Court and counsel.
 - ☐ Summations were heard from the: ☐ Government; ☐ Defense Counsel; ☐ Government (*Rebuttal*).
 - ☐ The Court charged the jury.
 - ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.
- ☐ Jury Deliberations held.
- ☐ The U.S. Marshal/Court Security Officer was sworn to monitor the jurors during deliberations.
 - ☐ Jury Notes were received and marked as Court Exhibits.
 - ☐ The Court instructed the jury to continue their deliberations pursuant to *Allen v. United States (Allen Charge)*.
 - ☐ The jury rendered the following verdict:
 - ☐ _____ on Count(s): _____ as to Defendant _____.
 - ☐ _____ on Count(s): _____ as to Defendant _____.
 - ☐ _____ on Count(s): _____ as to Defendant _____.
 - ☐ _____ on Count(s): _____ as to Defendant _____.
 - ☐ The jurors were polled as to their verdict.
 - ☐ The Verdict Sheet was received and marked as a Court Exhibit.
 - ☐ The Court charged the jury on the forfeiture allegation count(s) and instructed them to continue their deliberations.
 - ☐ Jury Notes were received and marked as Court Exhibits.
 - ☐ The jury rendered their verdict regarding the forfeiture allegation count(s).
 - ☐ The jurors were polled as to their verdict.
 - ☐ The Special Verdict Sheet was received and marked as a Court Exhibit.
 - ☐ The jurors, including alternates, were excused with the thanks of the Court.
 - ☐ The Conviction Notification Form was executed and sent to the U.S. Probation Department.
 - ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.

- ☐ Evidentiary Hearing/Motion Hearing/Fatico Hearing held.
- ☐ Hearing held regarding _____.
- ☐ The parties presented their oral arguments to the Court.
- ☐ Witness(es) were called for the: ☐ Government; ☐ defendant(s).
- ☐ Exhibits were entered into evidence.
- ☐ The following briefing schedule was set:
- ☐ _____ shall serve the motion and all supporting papers: due by: _____.
- ☐ _____ shall serve the opposition to the motion and all supporting papers: due by: _____.
- ☐ _____ shall serve the cross-motion and all supporting papers: due by: _____.
- ☐ _____ shall serve the reply and all supporting papers: due by: _____.
- ☐ _____ shall serve the opposition to the cross motion and all supporting papers: due by: _____.
- ☐ _____ shall serve the reply to the cross motion and all supporting papers: due by: _____.
- ☐ The Court WILL NOT grant any extensions of the deadlines set forth above.
- ☐ The parties are directed to submit courtesy copies of their motion papers to Chambers in accordance with the Court's Individual Rules.
- ☐ The parties were directed to file a proposed briefing schedule on or before _____.
- ☐ The Court will enter a separate order outlining the briefing schedule.
- ☐ The Court made the following ruling(s): ☐ Motion GRANTED; ☐ Motion DENIED; ☐ Motion GRANTED, in part.
- ☐ The Court's decision: ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was RESERVED.
- ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.
- ☒ Sentencing/Re-Sentencing held as to count(s) ^{1 - 3, 5, 6, 8 -} 10, 12, 14 - 18 of the eighteen-count Indictment filed on 10/25/2018.
- ☐ The parties advised the Court that there are no objections to the Presentence Investigation Report.
- ☒ Objections to the Presentence Investigation Report were outlined on the record by: ☐ the Government; ☒ Defense Counsel.
- ☒ The Court adopted the Presentence Investigation Report without change.
- ☐ Changes to the Presentence Investigation Report were outlined on the record by the Court.
- ☒ Oral presentations to the Court were made by: ☒ Defense Counsel; ☒ the defendant; ☒ the Government; ☐ the victim(s); ☐ _____.
- ☒ The defendant was sentenced to IMPRISONMENT for a total term of ONE HUNDRED AND TWENTY (120) MONTHS.
- ☒ Upon release, the defendant shall be on SUPERVISED RELEASE for a total term of THREE (3) YEARS.
- ☒ The defendant shall comply with the mandatory and standard conditions of supervision.
- ☐ One or more of the mandatory/standard conditions of supervision were not ordered or were amended by the Court.
- ☐ The defendant shall comply with the special conditions of supervision ordered by the Court.
- ☐ The Court did not impose a term of Supervised Release.
- ☐ The defendant was sentenced to PROBATION for a total term of _____.
- ☐ The defendant shall comply with the mandatory and standard conditions of supervision.
- ☐ One or more of the mandatory/standard conditions of supervision were not ordered or were amended by the Court.
- ☐ The defendant shall comply with the special conditions of supervision ordered by the Court.
- ☒ The defendant must pay the following criminal monetary penalties:
- ☐ RESTITUTION in the amount of: \$ _____; (☐ An Order of Restitution was executed.)
- ☐ A FINE in the amount of: \$ _____.
- ☒ A SPECIAL ASSESSMENT fine in the amount of: \$ 1,400.00.
- ☐ An AVAA ASSESSMENT fine in the amount of: \$ _____.
- ☐ A JVTA ASSESSMENT fine in the amount of: \$ _____.
- ☐ The interest requirement on any of the criminal monetary penalties:
- ☐ was ordered on the amounts of more than \$2,500.00.
- ☐ was modified by the Court.
- ☐ was waived/not ordered/not applicable.
- ☒ Restitution: ☒ was not ordered or not applicable; ☐ was paid in full prior to sentencing.
- ☒ A fine and/or other assessment: ☒ was not ordered or not applicable; ☐ was paid in full prior to sentencing.
- ☐ The determination of Restitution and/or a fine was deferred pending further proceedings or by further motion to the Court.
- ☐ All other conditions shall remain in effect as previously ordered and outlined in the judgment dated _____.
- ☐ The Order of Forfeiture dated _____ was adopted as the Final Order of Forfeiture and will be included as part of the judgment.
- ☒ A Final Order of Forfeiture was executed and will be included as part of the judgment.
- ☒ The defendant's right to appeal the Court's sentence:
- ☐ was waived (*pursuant to the Plea/Cooperation Agreement, or as stated on the record*).
- ☒ was preserved. The defendant has the right to file an appeal within **fourteen (14) days** of the date that the judgment is **entered, not filed**.
- ☐ All open counts in the charging instrument(s) were dismissed on the motion of the United States.
- ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.

IV. RULINGS MADE REGARDING DEFENDANT RELEASE STATUS:

- ☐ Bond Hearing/Detention Hearing held.
- ☐ Defendant _____ did not present a bond application to the Court.
- ☐ An Order of Detention was executed as to Defendant _____.
- ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
- ☐ The bond application/modification was GRANTED as to Defendant _____.
- ☐ An Order Setting Conditions of Release and Bond was executed as to Defendant _____.
- ☐ The conditions of release were modified as to Defendant _____, as stated on the record.
- ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
- ☐ The bond application/modification was DENIED as to Defendant _____.
- ☐ An Order of Detention was executed as to Defendant _____.
- ☐ The Government moved for immediate detention of Defendant _____.
- ☐ The motion was: ☐ GRANTED; ☐ DENIED; ☐ GRANTED, in part.
- ☐ An Arrest Warrant was executed as to Defendant _____.
- ☐ An Order of Detention was executed as to Defendant _____.
- ☐ The conditions of release were modified as to Defendant _____, as stated on the record.
- ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
- ☐ The decision regarding the bond or detention application was RESERVED.
- ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
- ☐ A temporary Order Setting Conditions of Release and Bond was executed as to Defendant _____.
- ☐ See Section VI and/or Section VII (*page 7*) for additional details and/or rulings.

For a defendant currently IN-CUSTODY:

- ☒ Defendant 1 remain(s) in custody.
- ☐ The following orders were executed and shall be forwarded to the U.S. Marshals Service and/or the Federal Bureau of Prisons:
- ☐ A Medical Evaluation Order as to Defendant _____.
- ☐ A Competency Order as to Defendant _____.
- ☐ A Force Order as to Defendant _____.
- ☐ The defendant, being sentenced to TIME SERVED (*time in-custody prior to sentencing/re-sentencing*), shall be RELEASED, FORTHWITH.
- ☐ A Time Served Order was executed and submitted to the U.S. Marshals Service.
- ☐ The defendant will be under supervision of the U.S. Probation Department until the completion of the ordered term of Supervised Release.
- ☐ The defendant will not serve a term of Supervised Release.

For a defendant currently AT LIBERTY:

- ☐ Defendant _____ remain(s) on bond.
- ☐ The defendant, being sentenced to a TERM OF IMPRISONMENT, shall be IMMEDIATELY REMANDED to the custody of the U.S. Marshals Service and/or the Federal Bureau of Prisons.
- ☐ The defendant, being sentenced to a TERM OF IMPRISONMENT, shall surrender for the service of the sentence before 2:00 PM on _____ at the institution designated by the Federal Bureau of Prisons. The defendant will REMAIN AT LIBERTY and under supervision of the Pretrial Services Department until the ordered surrender date.
- ☐ The U.S. Marshals Voluntary Surrender form was executed.
- ☐ Any motion to extend the surrender date must be made at least a **thirty (30) days** prior to the ordered surrender date.
- ☐ The defendant was advised that there will be no extensions of the surrender date.
- ☐ The defendant, being sentenced to a TERM OF PROBATION, will REMAIN AT LIBERTY and under supervision of the U.S. Probation Department until the completion of the ordered term of Probation.
- ☐ The defendant, being sentenced to TIME SERVED (*time in-custody prior to being released*), shall REMAIN AT LIBERTY and under supervision of the U.S. Probation Department until the completion of the ordered term of Supervised Release.
- ☐ The defendant, being sentenced to TIME SERVED (*time in-custody prior to being released as well as time under supervision*), shall be released from all conditions of supervision, forthwith.

V. FURTHER PROCEEDINGS SET:

☒ No further proceedings have been set at this time.

☐ Bond Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Curcio Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Detention Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Evidentiary Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Fatico Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Jury Selection: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Jury Trial: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Motion Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Plea Hearing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Pre-Trial Conference: For Defendant _____ set for _____ at _____ before _____; _____.

☐ Sentencing/Re-Sentencing: For Defendant _____ set for _____ at _____ before _____; _____.

☐ **Sentencing Memoranda Deadlines:**

☐ The Government's sentencing memorandum is due by: _____.

☐ The defendant's sentencing memorandum is due by: _____.

☐ The parties are directed to submit courtesy copies of their sentencing memorandums to Chambers in accordance with the Court's Individual Rules. If a party chooses to proceed without filing a sentencing memorandum, a letter to the Court advising as such must be filed on said due date, in lieu of the memorandum. **PARTIES ARE ON NOTICE** that once their sentencing memorandums are filed, further sentencing submissions will not be accepted without prior, written, Court approval.

☐ All sentencing memorandums have been filed. Further sentencing submissions will not be accepted without prior, written, Court approval.

☐ The Government waived the filing of a sentencing memorandum and reserved the right to make an oral presentation at sentencing.

☐ Defense counsel waived the filing of a sentencing memorandum and reserved the right to make an oral presentation at sentencing.

☐ Status Conference: For Defendant _____ set for _____ at _____ before _____; _____.

☐ The Court ordered the proceeding(s) above to be held via the Court's teleconferencing system. Parties are directed to dial the following telephone number at the designated time: **877-336-1839, access code 7231185**.

☐ The Court ordered the proceeding(s) above to be held by video, via **ZoomGov**. The parties on the case will be sent a separate notice by the Courtroom Deputy with instructions on how to log into the video meeting as the scheduled date approaches.

☐ *Further instructions regarding the proceeding(s) set:*

VI. OTHER RULINGS MADE DURING THE PROCEEDINGS:

☐ The record of this proceeding was deemed **SEALED**. Transcripts of this proceeding can be made available to the Court, the defendant(s), defense counsel, and the Government **ONLY**. Any other non-party must file a written request to the Court for permission to receive a copy of the transcripts.

☐ *The Court made the following rulings:*

VII. ADDITIONAL RULINGS:

☐ The Court makes the following additional rulings (*not addressed during the proceedings*):